

Serial No.: 10/779,916
Docket No.: 506474-0008

DAE
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s) : William C. Cortner Jr.
Serial No. : 10/779,916
Filing Date : February 17, 2004
Title : INSECTICIDE APPLICATOR AND METHOD FOR
LIVESTOCK
Group/Art Unit : 3644
Examiner : Elizabeth Anne Shaw
Confirmation No. : 9008
Docket No. : 506474-0008

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. 1.181(a)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 C.F.R.1.181(a), Applicant hereby petitions for withdrawal of the holding of abandonment of the above-identified application which became abandoned for failure to timely file a proper reply to an Office Action. A copy of the Notice of Abandonment mailed on May 17, 2005 is attached hereto as Exhibit A.

In support of this petition, enclosed are: (1) a copy of the docket sheet for Serial No. 10/779,916 run on May 20, 2005, the date of receipt of the Notice of Abandonment (Exhibit B); and (2) a photograph of the docket page for Serial No. 10/779,916 evidencing the last docket entry for the above-referenced application was made on January 13, 2005 (Exhibit C). As

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on:

Date: June 15 2005

Signature: Michael H. H. H.

The Commissioner is hereby authorized to charge any additional amount required, or credit any overpayment, to Deposit Account No. 19-4409.

discussed further below, the Office Action dated September 13, 2004 was not received by Applicant's attorney, therefore, the need to file a response was not added to Applicant's docket. As such, the failure to file a response was unavoidable.

REMARKS

On May 20, 2005, Applicant's counsel received the Notice of Abandonment (Exhibit A) from the United States Patent and Trademark Office. Upon receipt of the Notice, the file folder for the referenced application was pulled and both the Notice and the file folder were delivered to a patent paralegal for review. After review of the Notice of Abandonment, the paralegal performed a search on the firm's patent docket for information regarding the September 13, 2004 Office Action. It was determined by reviewing the docket and by a search of the file folder, that the September 13, 2004 Office Action had not been received by Applicant's counsel and, therefore, had not been docketed. The paralegal then printed a copy of the docket sheet where the Office Action would have been docketed had it been received. This document is attached hereto as Exhibit B. An examination of Exhibit B shows that the last entry made to the docket for this application was made on January 13, 2005. Exhibit C, is a photocopy of the January 13, 2005 docket entry, and is attached to show that the modification to the docket was made in reference to the Applicant's instructions not to file foreign applications. There is no reference to the September 2004 Office Action.

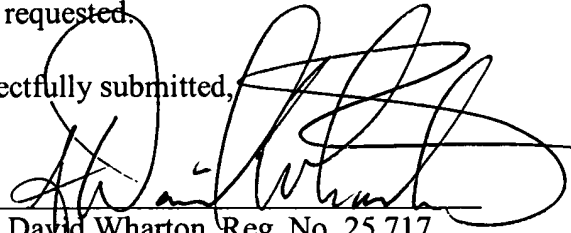
In view of the afore-described facts, Applicant respectfully submits that the failure to timely file a reply was due to nonreceipt of the Office Action by Applicant's attorney and, thus, was unavoidable. As such, it is requested that the holding of abandonment be withdrawn and that the Office Action be reissued with a new response date.

The undersigned is submitting this Petition under 37 CFR 1.181 and, as such, a fee is not required. If, however, it is determined that a fee is required, the undersigned hereby authorizes the Commissioner to charge Deposit Account No. 19-4409 for the necessary fee.

Acknowledgment of receipt is respectfully requested.

Respectfully submitted,

By:



J. David Wharton, Reg. No. 25,717
STINSON MORRISON HECKER LLP
1201 Walnut Street, Suite 2900
Kansas City, MO 64106-2150
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Facsimile: (816) 691-3495
Attorney for Applicant

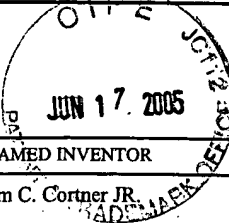
Enclosures

506474:0008\6584886.1



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov



APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/779,916

02/17/2004

William C. Cortner JR.

506474-0008

9008

27910

7590

05/17/2005

STINSON MORRISON HECKER LLP

ATTN: PATENT GROUP

1201 WALNUT STREET, SUITE 2800

KANSAS CITY, MO 64106-2150

EXAMINER

SHAW, ELIZABETH ANNE

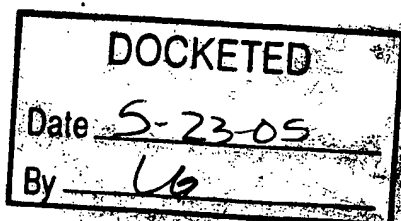
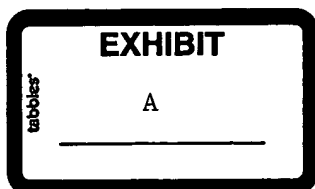
ART UNIT

PAPER NUMBER

3644

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



MAY 20 2005

Notice of Abandonment

Application No.

10/779,916

Examiner

Elizabeth A. Shaw

Applicant(s)

CORTNER, WILLIAM C.

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 13 September 2004.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:


MICHAEL J. CALONE
SUPERVISORY PATENT EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

SMH# 506474-0008

PRINTED ON: 5/20/2005

COUNTRY	US	UNITED STATES	TITLE		PRIOR	2/17/2004	
NEW/CON	NEW	SERIAL#	10/779,916	Insecticide Applicator And Method For Livestock	MAIL	2/17/2004	
RELATED		PATENT#			FILE	2/17/2004	
TYPE	UTL	STATUS	PENDING		PUBL		
CLIENT	506474	CORTNER, WILLIAM C.	1		CREF		
AGENT				AREF		ISSUE	
						1ST	2/17/2004
						EXP	2/17/2024

ID	O	ACTION	BASE	DUE IN	DUE	EXTNS	FINAL	EXT	RESPONSE	CALL UP	1	2	P
	Y	DECLARATION	2/17/2004										
Declaration filed w/app 2/17/04													
PC	N	POST CARD CHECK	2/17/2004	1	M	3/17/2004		3/17/2004	0	3/1/2004	0	M	Y Y Y
Post card recvd 3/1/04, anticipated filing date 2/17/04, Serial No. 10/779916													
DS	N	INF DISCLOSURE STMT	2/17/2004	3	M	5/17/2004	1	1	6/17/2004	1	7/9/2004	1	M Y Y Y
Mentioned in ltr to clt 2/18/04; IDS filed w/PTO 7/9/04													
FS	N	FILG RCPT STATUS CHK	2/17/2004	3	M	5/17/2004		5/17/2004	0	5/11/2004	0	M	Y Y Y
NC	N	NOTIFY CLIENT OF FF	2/17/2004	6	M	8/17/2004	0	8/17/2004	0	8/10/2004	1	M	Y Y Y
Mentioned in ltr to clt 2/18/04; Foreign filing ltr mailed to clt 8/10/04													
FO	N	FOREIGN FILING DUE	2/17/2004	12	M	2/17/2005		2/17/2005	0	8/16/2004	3	M	Y Y Y
Mentioned in ltr to clt 2/18/04; Foreign filing ltr mailed to clt 8/10/04; Clt ltr instructing not to file foreigners 8/16/04													
PU	N	PUBLICATION	2/17/2004	18	M	8/17/2005		8/17/2005	0		1	M	Y Y Y
SC	N	STATUS CHECK	2/17/2004	18	M	8/17/2005	0	8/17/2005	0		1	M	Y Y Y

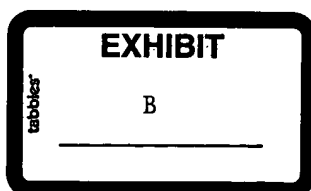
INVENTORS
CORTNER, WILLIAM C., JR.

TERMS
INSECTICIDE
LIVESTOCK

INVOICE #	DATE	VENDOR	AMOUNT
46336	2/13/2004	DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE	\$385.00
DESCRIPTION			
Processing & Filing New Patent Application			
TOTAL			\$385.00

USER-DEFINABLE FIELDS		PATENT FIELDS	
CPI		SMALL ENTITY	Yes
LOC		ART UNIT	3643
PBL#		CLAIMS	
		PUBLICATION#	
		EXAMINER	
		CONFIRM#	9008

P00644US00 ENTERED 2/18/2004 MODIFIED 1/13/2005 BY LJJ ATTORNEYS JDW / JDW / N/A



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SM# 506474-0008 RECORD 1 OF 1

COUNTRY	US UNITED STATES	PATENT TITLE	
NEW/CON	NEW	SERIALS	10/779,916
RELATED		PATENTS	
TYPE	UTL	STATUS	PENDING
CLIENT	506474 CORTNER, WILLIAM C.	CREF	
AGENT		AREF	
PRIOR	2/17/2004	MAILED	2/17/2004
FILED	2/17/2004	PUBLISH	Y
ISSUED		1ST FILE	2/17/2004
EXPIRES	2/17/2024		

H	ID	ACTION	BASE	DUE IN	DUE	EXTNS	FINAL	EXT	RESPONSE	CALLUP	1	2	P
N	NC	NOTIFY CLIENT OF FF	2/17/2004	6 M	8/17/2004	0	8/17/2004	0	8/10/2004	1 M	Y	Y	Y
N	FO	FOREIGN FILING DUE	2/17/2004	12 M	2/17/2005		2/17/2005	0	8/16/2004	3 M	Y	Y	Y
N	PU	PUBLICATION	2/17/2004	18 M	8/17/2005		8/17/2005	0		1 M	Y	Y	Y

ID: FO NOTES Mentioned in ltr to clt 2/18/04; Foreign filing ltr mailed to clt 8/10/04; Clt ltr instructing not to file foreigners 8/16/04

FEE 0.00 MODIFIED LJC 1/13/2005

MAIN NOTES GENERAL LICENSES INVOICES PRIOR APPS ADD INFO LETTERS FAMILY PTA ABSTRACT CLAIMS

INVENTORS	ASSIGNEES/OWNERS	TERMS
CORTNER, WILLIAM C., JR.		INSECTICIDE
		LIVESTOCK

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